

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *Chris*
Acting Executive Director

ESTIMATED TIME
2 HOURS

DATE: November 27, 2000

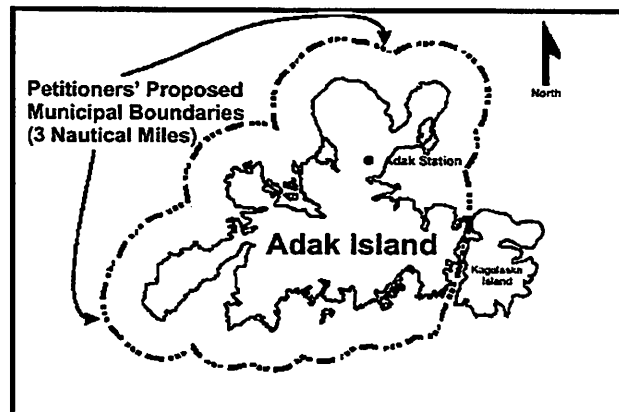
SUBJECT: Halibut Subsistence

ACTION REQUIRED

Reconsideration of Adak as an eligible community for halibut subsistence.

BACKGROUND

In October 2000, the Council included Adak on its list (Revised Table 5.4, Alaska Rural Places with Subsistence Uses of Halibut) of rural communities determined to be eligible for halibut subsistence. Its inclusion was based on public testimony describing the past forced evacuation of the Aleut people from Adak Island during World War II and its recent repatriation. The full October 2000 final halibut subsistence motion is under Item C-1(a).



The Council identified that its policy for adding communities to its list (Revised Table 5.4) would be to seek a customary and traditional (C&T) use finding from either the Board of Fisheries (BOF) or Federal Subsistence Board (FSB). Table 5.4. was generated by ADF&G staff by cross-referencing the criteria for identifying halibut C&T use approved by the BOF with the State's 'rural' standard and the known range of Pacific halibut. Shishmaref and Diomedes were added to the original draft of Table 5.4 after public testimony during the Halibut Subsistence Committee Meeting. Staff made a special point of identifying this change to the Council, which concurred with the addition.

Representatives of Adak similarly requested to be added to the list of eligible communities during public testimony at final Council action in October. The necessary information was not readily available for staff to determine whether Adak met the BOF halibut C&T use and rural criteria during final deliberation. After considerable debate, the Council decided to include Adak in its definition of halibut subsistence.

A subsequent Council motion failed that would have removed Adak from the list because it had not been identified previously to be a rural community eligible for halibut C&T use (subsistence). Additional rural communities may seek eligibility in the near future, and the concern was expressed that a direct petition to the Council circumvented the process for adding communities, as identified by the Council as part of its action.

The Council subsequently placed this issue on its December Council agenda for reconsideration. At issue is its stated policy of requiring additional communities to first petition either the BOF or FSB before petitioning the Council. Other aspects of the subsistence motion adopted by the Council in October 2000 have not been placed on the agenda and can not be reconsidered at this time.

Since final action, staff has determined that Adak meets the BOF halibut C&T criteria and was inadvertently not included in Table 5.4 (5 AAC 01.366 and 5 AAC 01.350). The BOF also has found that Adak is a rural place. Further, Adak is not listed as one of the nonsubsistence areas in state regulation (5 AAC 99.015).

5 AAC 01.366. CUSTOMARY AND TRADITIONAL SUBSISTENCE USES OF FISH STOCKS. The Alaska Board of Fisheries (board) finds that halibut and all other finfish in the Aleutian Islands Area and the waters surrounding the Pribilof Islands are customarily and traditionally taken or used for subsistence.

5 AAC 01.350. DESCRIPTION OF THE ALEUTIAN ISLANDS AREA. The Aleutian Islands Area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172 degrees East longitude, and south of 54 degrees 36 minutes North latitude.

In contrast with the BOF findings, the FSB has found that Adak is a non-rural place (Federal Register, June 30, 2000, 36 CFR Part 242; 50 CFR Part 100, Subpart C, __.23). This finding was probably made when Adak was a military station. As discussed during final action in October 2000, Adak is currently in a transitional period. The military base has closed and the Aleutian Island Native corporation is attempting to reestablish Adak as an Aleut community with an economy including commercial fishing, commercial fish processing, and subsistence hunting and fishing. The BOF's recognition of a subsistence use of halibut is consistent with the direction that Adak appears to be headed as a community. The FSB likely would consider changing its non-rural finding for Adak sometime in the future, if the community petitions for the change.

In summary,

- Adak should have been included in the Revised Table 5.4 because it meets the BOF criteria for a halibut C&T use finding. The Council's inclusion of Adak in its final action for defining halibut subsistence corrected this omission.
- The Council may wish to clarify its policy of requiring a finding of halibut C&T use from the BOF since the BOF has not made individual community C&T findings since 1989. The Council may wish to require a letter from either the ADF&G Subsistence Division or BOF Support staff certifying that a petitioning community meets the criteria for identifying halibut C&T use approved by the BOF with the State's 'rural' standard and the known range of Pacific halibut before it will consider including additional communities for halibut subsistence.
- The Council may wish to reconsider its policy of requiring a finding of halibut C&T use from the FSB since using such a determination for additional communities appears to contradict the Council's decision to adopt the list that matched the BOF criteria for rural and halibut C&T use. For instance, Kenai Peninsula residents could currently petition the FSB for a halibut C&T finding and apply to the Council for inclusion in the proposed subsistence fishery.

FINAL CORRECTED VERSION

**North Pacific Fishery Management Council Action on Halibut Subsistence Issues
October 7, 2000**

Adopt an alternative to allow the harvest of halibut for subsistence with the following options:

Option 1: Define subsistence.

Halibut subsistence regulations are needed to allow the continued practice of long-term customary and traditional practices of fishing halibut for food for families in a non-commercial manner for non-economic consumption. Subsistence is defined as the 'non-commercial, long-term, customary and traditional use of halibut.'

Option 2: Define eligibility.

Suboption B: Persons eligible to subsistence fish for halibut are: Alaska rural residents as defined in ANILCA* and identified in the table 5.4 entitled "Alaska Rural Places in Areas with Subsistence Halibut Uses," and will also include other communities for which customary and traditional findings are developed in the future. The list specifically includes the communities of Adak, Diomede, and Shismaref. This list of eligible rural communities can only be changed by Council action. The Council urges communities seeking eligibility to subsistence fish for halibut to pursue a 'customary and traditional' finding from the appropriate bodies before petitioning the Council.

Other persons eligible to subsistence fish for halibut are:

1. All identified members of Alaska Federally recognized native tribes in rural areas with a finding of customary and traditional use of halibut who move to or have moved to an urban area are allowed to return to their area of tribal membership and exercise their subsistence rights for halibut fishing.
2. All members of Alaska Federally recognized native tribes with a finding of customary and traditional use of halibut that live in an area that has become or in the future becomes urban shall be allowed to exercise their halibut subsistence rights anywhere in a designated rural area within the state of Alaska.

*Under federal law in ANILCA, subsistence uses are identified as customary and traditional uses of fish and game by rural Alaska residents.

Option 3: Define legal gear.

Suboptions A and B. The legal gear for subsistence halibut fishing is set and hand-held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jigging and hand-troll gear.

Suboption D. Retention of subsistence halibut less than 32" (shorts) while commercial fishing is allowed only in Regulatory Area 4E (and Savoonga and Gambell). Retention of halibut greater than 32" while commercial fishing is allowed statewide, with retentions reported and counted against an IFQ.

Option 4: Allow the customary and traditional trade of subsistence halibut.

Suboption A. Customary and traditional trade through monetary exchange shall be limited to an annual maximum of \$400. No customary and traditional trade is allowed upon the premises of commercial buying operations. Persons licensed to engage in a fisheries business may not exchange, solicit to exchange, or receive for commercial purposes, subsistence-taken halibut. No exchange of subsistence-caught halibut from a monetary exchange, trade, or barter is allowed to enter commerce at any point.

Suboption B. Customary and traditional trade through non-monetary exchange is allowed with anyone.

Option 5: Define a daily bag limit.

The daily limit for subsistence halibut in rural areas is up to 20 halibut, except there is no limit in 4C and 4E (including Savoonga and Gambell).

Option 6: Cooperative agreements with tribal, State, and Federal governments and other entities may be developed for harvest monitoring, local area planning, and other issues affecting subsistence uses of halibut.

The North Pacific Fishery Management Council (Council) requests the Alaska Board of Fisheries (Board) to recommend potential regulatory options in subsistence halibut regulations relating to:

1. Legal gear;
2. Daily limits;
3. Reporting requirements;
4. Customary and traditional use areas of tribes and rural communities; and
5. Non-rural area definitions for halibut fishing areas.

The Council requests that the Board meet on this issue during their normal 2000-2001 cycle and present its recommendations to the Council at the Council's June 2001 meeting.

Table 5.4 (Revised). Alaska Rural Places in Areas with Subsistence Halibut Uses

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

Rural Place*	Organized Entity	Population (1995)	Percent Alaska Native	Number Alaska Natives	Number Non- Natives	Halibut Coastal District	Use Pattern
							1 = regular 2 = periodic 3 = undocumented
District 2C							
Angoon	Municipality	601	82.3%	495	106	2C	1
Coffman Cove	Municipality	254	6.9%	18	236	2C	1
Craig	Municipality	1,946	22.9%	446	1,500	2C	1
Edna Bay	Census Designated Place	79	0.0%	0	79	2C	1
Elfin Cove	Census Designated Place	48	1.8%	1	47	2C	1
Gustavus	Census Designated Place	328	3.9%	13	315	2C	1
Haines	Municipality	1,363	18.1%	247	1,116	2C	1
Hollis	Census Designated Place	106	2.7%	3	103	2C	1
Hoonah	Municipality	903	67.2%	607	296	2C	1
Hydaburg	Municipality	406	89.1%	362	44	2C	1
Hyder	Census Designated Place	138	1.0%	1	137	2C	1
Take	Municipality	696	73.4%	511	185	2C	1
Kasaan	Municipality	41	53.7%	22	19	2C	1
Klawock	Municipality	759	54.3%	412	347	2C	1
Klukwan	Census Designated Place	165	86.8%	143	22	2C	1
Metlakatla	Census Designated Place	1,540	82.9%	1,277	263	2C	1
Meyers Chuck	Census Designated Place	35	10.8%	4	31	2C	1
Pelican	Municipality	209	29.3%	61	148	2C	1
Petersburg	Municipality	3,374	10.1%	341	3,033	2C	1
Point Baker	Census Designated Place	62	0.0%	0	62	2C	1
Port Alexander	Municipality	98	2.5%	2	96	2C	1
Port Protection	Census Designated Place	64	1.6%	1	63	2C	1
Saxman	Municipality	394	76.9%	303	91	2C	1
Sitka	Municipality	9,194	20.9%	1,922	7,272	2C	1
Skagway	Municipality	811	5.5%	45	766	2C	1
Tenakee Springs	Municipality	107	9.8%	10	97	2C	1
Thome Bay	Municipality	650	1.2%	8	642	2C	1
Whale Pass	Census Designated Place	92	2.7%	2	90	2C	1
Wrangell	Municipality	2,758	20.0%	552	2,206	2C	1
<i>District 2C Communities</i>		27,221	28.7%	7,806	19,415		
District 3A							
Akhiok	Municipality	80	93.5%	75	5	3A	1
Chenega Bay	Census Designated Place	96	69.2%	66	30	3A	1
Cordova	Municipality	2,568	11.2%	288	2,280	3A	1
Karluk	Census Designated Place	58	91.5%	53	5	3A	1
Kodiak City	Municipality	13,498	10.7%	1,443	12,055	3A	1
Larsen Bay	Municipality	130	84.4%	110	20	3A	1
Nanwalek	Census Designated Place	162	91.1%	148	14	3A	1
Old Harbor	Municipality	310	88.7%	275	35	3A	1
Ouzinkie	Municipality	259	85.2%	221	38	3A	1
Port Graham	Census Designated Place	170	90.4%	154	16	3A	1
Port Lions	Municipality	233	67.6%	158	75	3A	1
Seldovia	Municipality	289	15.2%	44	245	3A	1
Tattler	Census Designated Place	124	86.6%	107	17	3A	1
Yakutat	Municipality	801	55.1%	441	360	3A	1
<i>District 3A Communities</i>		18,778	19.1%	3,582	15,196		
District 3B							
Chignik Bay	Municipality	141	45.2%	64	77	3B	1
Chignik Lagoon	Census Designated Place	65	56.6%	37	28	3B	1
Chignik Lake	Census Designated Place	154	91.8%	141	13	3B	1
Cold Bay	Municipality	107	5.4%	6	101	3B	1
False Pass	Municipality	73	76.5%	56	17	3B	1
Ivanof Bay	Census Designated Place	28	94.3%	26	2	3B	1
King Cove	Municipality	716	39.3%	281	435	3B	1
Nelson Lagoon	Census Designated Place	88	80.7%	71	17	3B	1
Perryville	Census Designated Place	104	94.4%	98	6	3B	1
Sand Point	Municipality	844	49.3%	416	428	3B	1
<i>District 3B Communities</i>		2,320	51.6%	1,196	1,124		
Districts 4A-D							
Adak	Census Designated Place	220	65.0%	143	77	4B	3
Akutan	Municipality	436	13.6%	59	377	4A	1
Atka	Municipality	77	92.9%	71	6	4B	1
Gambell	Municipality	628	96.2%	604	24	4D	1
Nikolski	Census Designated Place	27	82.9%	22	5	4A	1
Savoonga	Municipality	604	95.2%	575	29	4D	1
St. George	Municipality	151	94.9%	143	8	4C	1
St. Paul	Municipality	767	66.1%	507	260	4C	1
Unalaska	Municipality	4,063	8.4%	342	3,741	4A	1
<i>Districts 4A-D Communities</i>		6,993	35.3%	2,467	4,526		

Table 5.4 (Revised). Alaska Rural Places in Areas with Subsistence Halibut Uses

Sources: Alaska Department of Fish and Game; Alaska Department of Labor

Rural Place*	Organized Entity	Population (1985)	Percent Alaska Native	Number Alaska Natives	Number Non- Natives	Halibut Coastal District	Use Pattern
							1 = regular 2 = periodic 3 = undocumented
District 4E							
Chefomak	Municipality	371	97.5%	362	9	4E	1
Mekoryak	Municipality	212	99.4%	211	1	4E	1
Newtok	Census Designated Place	275	93.2%	256	19	4E	1
Nightmute	Municipality	189	95.4%	180	9	4E	1
Toksook Bay	Municipality	485	95.5%	463	22	4E	1
Tununak	Census Designated Place	354	96.2%	341	13	4E	1
Wales	Municipality	173	88.9%	154	19	4E	1
Aleknagik	Municipality	182	83.2%	151	31	4E	2
Clark's Point	Municipality	63	88.3%	56	7	4E	2
Dillingham	Municipality	2,243	55.8%	1,252	991	4E	2
Egegik	Municipality	143	70.5%	101	42	4E	2
King Salmon	Census Designated Place	539	15.5%	84	455	4E	2
Kipnuk	Census Designated Place	544	97.5%	530	14	4E	2
Kongiganak	Census Designated Place	336	97.3%	327	9	4E	2
Levelock	Census Designated Place	116	82.9%	96	20	4E	2
Manokotak	Municipality	402	95.6%	384	18	4E	2
Naknek	Census Designated Place	617	41.0%	253	364	4E	2
Nome	Municipality	3,576	52.1%	1,863	1,713	4E	2
Pilot Point	Municipality	74	84.9%	63	11	4E	2
Port Heiden	Municipality	126	72.3%	91	35	4E	2
South Naknek	Census Designated Place	146	79.4%	116	30	4E	2
Alakanuk	Municipality	604	95.8%	579	25	4E	3
Bethel	Municipality	5,195	63.9%	3,319	1,876	4E	3
Brevig Mission	Municipality	265	92.4%	245	20	4E	3
Chevak	Municipality	682	92.9%	634	48	4E	3
Council	Census Designated Place	8	62.5%	5	3	4E	3
Diomedes (Inalik)	Municipality	154	93.8%	144	10	4E	3
Eek	Municipality	283	95.7%	271	12	4E	3
Elim	Municipality	281	91.7%	258	23	4E	3
Emmonak	Municipality	762	92.1%	702	60	4E	3
Golovin	Municipality	148	92.9%	137	11	4E	3
Goodnews Bay	Municipality	253	95.9%	243	10	4E	3
Hooper Bay	Municipality	996	95.9%	955	41	4E	3
Kotlik	Municipality	543	96.9%	526	17	4E	3
Koyuk	Municipality	258	94.8%	245	13	4E	3
Kwigillingok	Census Designated Place	326	95.0%	310	16	4E	3
Napaklak	Municipality	326	94.3%	308	18	4E	3
Napaskiak	Municipality	404	94.8%	383	21	4E	3
Oscarville	Census Designated Place	42	91.2%	38	4	4E	3
Platinum	Municipality	44	92.2%	41	3	4E	3
Quinhagak	Municipality	549	93.8%	515	34	4E	3
Scammon Bay	Municipality	434	96.5%	419	15	4E	3
Shaktolik	Municipality	199	94.4%	188	11	4E	3
Sheldon Point	Municipality	131	92.7%	121	10	4E	3
Shishmaref	Municipality	537	94.5%	507	30	4E	3
Solomon	Census Designated Place	6	100.0%	6	0	4E	3
St. Michael	Municipality	332	91.2%	303	29	4E	3
Stebbins	Municipality	475	94.8%	450	25	4E	3
Teller	Municipality	274	91.3%	250	24	4E	3
Togiak	Municipality	700	87.3%	611	89	4E	3
Tuntutuliak	Census Designated Place	340	96.7%	329	11	4E	3
Twin Hills	Census Designated Place	75	92.4%	69	6	4E	3
Ugashik	Census Designated Place	5	85.7%	4	1	4E	3
Unalakleet	Municipality	764	81.8%	625	139	4E	3
White Mountain	Municipality	209	87.8%	184	25	4E	3
<i>District 4E Communities</i>		27,770	76.9%	21,256	6,514		
Total Districts		83,082	43.7%	36,307	46,775		

* Places where subsistence (wild food harvest and use) is a principal characteristic of the community's economy and way of life, as determined by the Alaska Joint Board of Fisheries and Game

COMMERCIAL FISHERIES



NEWS RELEASE



ALASKA DEPARTMENT
OF FISH & GAME

STATE OF ALASKA
Department of Fish and Game
Frank Rue, Commissioner

Westward Region
211 Mission Road
Kodiak, AK 99615

Robert D. Mecum, Director
Commercial Fisheries Division
Juneau, AK 99802

Contact: Robert K Gish
BSAI Area Groundfish Biologist
Dutch Harbor, AK 99692

IMMEDIATE RELEASE

Date: July 5, 2000

ATTENTION ADAK AREA STATE WATER FISHERMEN: NEW VESSEL LENGTH AND GEAR RESTRICTION ZONES

In March of 2000 the Alaska Board of Fisheries (BOF) established gear and vessel length restrictions for Pacific cod and rockfish in the central Aleutian Islands. This zone is part of the nonexclusive Bering Sea – Aleutian Islands Area. The effective date for the new zones is July 5, 2000.

Description of Zones and Restrictions

The board defined two zones, each with different restrictions. The first zone encompasses all state waters between 175°30' and 177° West longitude (see attached map). This zone is open to vessels 60 feet and less from May 1 to September 15, and only pot, longline, mechanical jig and hand troll are legal gear types. These restrictions apply only to vessels in a directed fishery for Pacific cod.

The second zone includes state waters between Adak, Great Sitkin and Tagalak Islands and waters adjacent to Adak Island in the Bay of Islands area and between Boot Point and Cape Kagigikak. This zone is open all year to vessels 60 feet and less in length overall, and pot, longline, mechanical jig and hand troll are legal gear types when directed fishing for Pacific cod and all rockfish species.

There are no restrictions on the amount of hand troll, longline or pot gear. A maximum of five mechanical jig machines may be operated from a vessel. The vessel length and gear restriction zones mentioned above do not apply to fisheries for other species in these two zones.

Registration

All vessels must have a valid Westward Region groundfish registration before participating in the Pacific cod and rockfish (other than black rockfish) fishery. Vessels targeting black rockfish must be registered separately for the black rockfish fishery. Registration forms are available through the ADF&G offices in Kodiak and Dutch Harbor.

Harvest Levels

The Alaska Department of Fish and Game (ADF&G) has a guideline harvest level (GHL) of 20,000 pounds for black rockfish from state waters of the Aleutian Islands west of 168° West longitude. Bycatch of black rockfish is allowed at 5% of the target species weight.

Previous action by the North Pacific Fishery Management Council (NPFMC) has established an allocation of Pacific cod for jig vessels in the Bering Sea/Aleutian Islands (BSAI). This allocation is 2% of the BSAI Total Allowable Catch (TAC). The fixed gear allocation for the BSAI is 51% of the TAC.

Note: The NPFMC has established an allocation of Pacific cod for longline and pot vessels less than 60 feet in length overall. This allocation is currently not in effect, however it may be effective on September 1, 2000. The allocation will be 1.4% of the Bering Sea/Aleutian Islands TAC.

Seasons

The black rockfish season is January 1 through December 31, unless closed earlier by emergency order (EO). Pacific cod and rockfish, other than black rockfish, are federally managed species, and fishermen should check with the National Marine Fishery Service (NMFS) for seasons, harvest levels and bycatch levels. Generally, the jig fishery for Pacific cod opens January 1; to date it has never been closed. The Pacific cod pot and longline fishery for all vessels is on a trimester scheme with openings on January 1, May 1, and September 1. Currently, vessels less than 60 feet must adhere to the fixed gear closures announced by NMFS. Rockfish, other than black rockfish, are opened and closed by species groups. There are several groups, they are managed by area and subarea, and these fisheries are primarily during the summer.

Observer Coverage & Logbooks

Federal regulations require vessels 60 feet and greater in length to carry an observer 30% of the time. Operators of those vessels should check with the federal observer program to determine when observer coverage is required. For vessels 60 feet and greater in length federal logbook requirements are in effect.

Fish Tickets

To account for all harvest from these new areas, fishermen are requested to accurately complete fish tickets indicating the statistical area where the fish were taken. The new statistical areas are depicted on the attached map.

Closures

Closures for Pacific cod and rockfish, other than black rockfish, will be announced by NMFS through their distribution system. If the black rockfish fishery closes, the announcement will be by ADF&G via SSB on 4125 MHz and faxed to area processors and media.

Alaska Department of Fish and Game Department Contacts:

Skip Gish
Dutch Harbor Office
(907) 581-1239

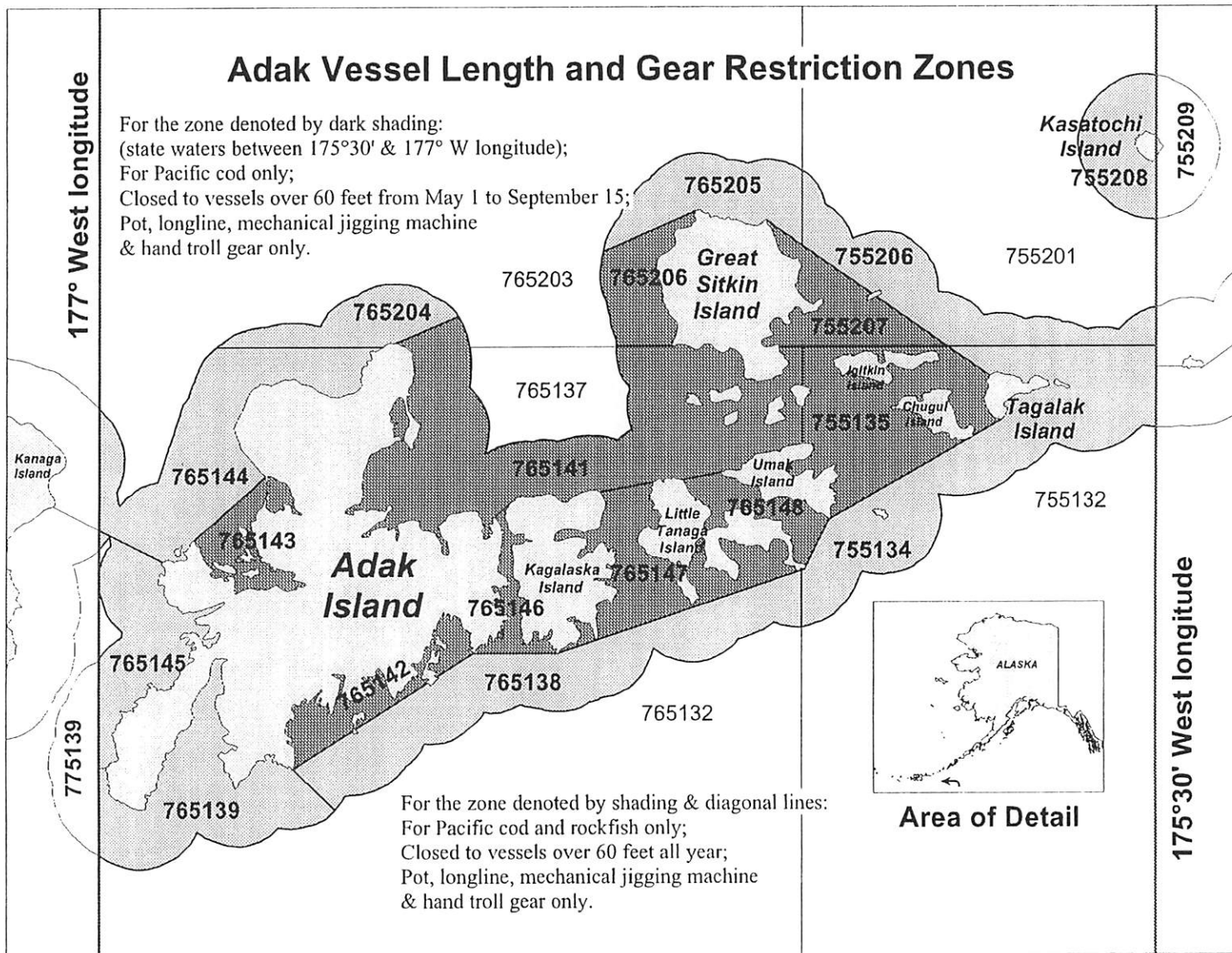
Wayne Donaldson
Kodiak Office
(907) 486-1840

National Marine Fisheries Service Contacts:

Andy Smoker
Nick Hindman
Marry Furuness

Alaska Regional Office
Juneau
(907) 586-7228

Adak Vessel Length and Gear Restriction Zones



For the zone denoted by dark shading:
 (state waters between 175°30' & 177° W longitude);
 For Pacific cod only;
 Closed to vessels over 60 feet from May 1 to September 15;
 Pot, longline, mechanical jigging machine
 & hand troll gear only.

For the zone denoted by shading & diagonal lines:
 For Pacific cod and rockfish only;
 Closed to vessels over 60 feet all year;
 Pot, longline, mechanical jigging machine
 & hand troll gear only.



Area of Detail

NorQuest Buys Adak Plant

Terry Gardiner and NorQuest Seafoods have set their sights west—way west—to boost the Seattle-based processor's stake in groundfish.

In July, NorQuest announced it bought Adak Seafoods on Adak Island in the western Aleutians. The fledgling Adak company was begun less than two years ago by two Norwegians and had done well enough salting Pacific cod to interest larger suitors.

Gardiner, NorQuest's president, says buying Adak Seafoods is a chance to do something special: help transform the now all-but-abandoned Cold War Navy base at Adak into a frontier fishing town. "Our interest in Adak is having a year-round shore plant," he says. "We're not a major player in the bottomfish area, so this was a good prescription for us to find a location that is focused on bottomfish."

The purchase price was not disclosed. The Adak operation was renamed NorQuest-Adak and is headed by John Garner, NorQuest's senior vice president. Adak Seafoods founder Kjetil Solberg and Irgen Iversen were retained as minority owners and managers.

Teaming with the bigger company will accelerate the Adak processor's growth, Solberg says, adding that he's thankful for "the brave fishermen who had the guts to go west and fish and deliver" millions of pounds of cod, halibut, and sablefish at Adak Seafoods.

Gardiner says the beauty and curse of Adak is its location. "You have to look at a globe to understand why Adak was a naval center and why it has interesting potential as a seafood producer location—same distance from Adak to Tokyo [or] to Seattle," Gardiner says.

Yet it's brutally remote. The island is not on the regular freighter circuit, and is served by only two flights a week. It'll be tricky getting spare parts and other supplies through Adak's notoriously snotty weather, and moving fresh seafood is impractical, Gardiner says.

But Adak has a wonderland of Navy-built amenities including schools, houses, docks, roads, and utilities.

Gardiner wants to expand rapidly and diversify the Adak plant, moving it beyond just seasonal operation. Working out of a former Navy cold storage on the Adak waterfront, the plant's maximum employment should go from about 40 to 100 within two years, he says.

NorQuest planned to immediately install an expanded processing line to take advantage of the Aleutians' brown king crab season, which runs from mid

August into winter. The main fishery is cod, but Gardiner likes Adak as a base for sea cucumber, shrimp, and clam landings.

NorQuest has been talking to its salmon and other fishermen about relocating to Adak, long not an option for fishermen because of Navy restrictions, lack of a fish processor, and lack of fuel for the 350-mile run to Dutch Harbor.

A big factor in deciding to invest at Adak was an Alaska Board of Fisheries vote in March to largely ban trawling and cod and rockfish vessels over 60 feet from state waters off Adak and nearby islets. Another plus: low halibut quota prices in the far-flung western Aleutians.

For more on Adak and the restricted fishing zone and seasons, visit www.adak-island.com or www.cf.adfg.state.ak.us/regi-on4/news/news_rel.htm

—Wesley Loy

Bristol Bay to Get "Crop Insurance"

Some form of "crop insurance" will likely be available to Bristol Bay salmon fishermen in 2002. It could be expanded to other fisheries if the pilot project proves successful. What's not clear now is how the system will work.

Congress, pushed by Alaska senator Ted Stevens, has told the U.S. Department of Agriculture to put its risk management specialists to work designing a program, with Bristol Bay named as the pilot. The 2002 season "would be the testing phase," says Dave Paul, Northwest regional director for USDA's risk management agency. "The feasibility study would determine what kind of risk management system you try in the pilot project."

The pilot system might not tie potential compensation to the catch records of individual fishermen, since that could be difficult to administer. "We're ensuring the safeguards are there from the taxpayers' perspective," Paul says.

"We know there are risk management methods that will fit," says Jay Garner, insurance management specialist for the department in Kansas City. An insurance program could involve average harvest levels across the fleet, a trigger point in the overall catch, or some system tied to adjusted gross revenue.

"The whole basis of risk management is, you look at probability and severity of risk—you look at how often and how big,"

Garner says. "What do we need in the way of a reserve to protect yourself from this weather event? Add biological events and things get very interesting. We don't want a simplistic solution to a complex problem."

The USDA's crop insurance program has already been expanding. Congress recently told the department to add livestock. Paul says the program now encompasses aquaculture policies in some parts of the nation but doesn't yet cover salmon farms in the Northwest.

Stevens repeatedly compared the vicissitudes of fishing with those in farming as he fought for emergency aid to deal with slim returns to Bristol Bay in 1997 and 1998, as well as other crashes that have strained remote villages with few cash-generating opportunities. The provision to add commercial fishing—for wild fish—finally came in legislation signed into law this summer, says Nathan Butzlaff, an aide to Stevens. It allocates \$1 million a year to the program.

While the risk management specialists say they're confident they can get the pilot program going in the comparatively short time span before 2002, Butzlaff is more cautious. "If this isn't feasible to risk management, it won't happen," he says.

—Allen Baker



RECEIVED

NOV 28 2000

N.P.F.M.C

Re: Agenda Item C-1

Dear Chairman and Council Members,

At it's October 7, 2000 meeting this body rendered halibut subsistence management decision that in part includes race as a qualification for access to this common property resource. It is also my understanding that the Council did in fact consider using race as the sole qualification for inclusion in its proposal. It looks as though the council in the same breath is endeavoring to establish a de-facto commercial halibut fishery within the existing commercial fishery with a different set of rules, and all of this accomplished without proper representation from coastal communities or industry.

This is an indefensible proposal and should be dropped in it's entirety. Having lived through the 1960's when racial bias or favoritism was the cause of revolution in this country, it is unthinkable in this day and age that a branch of the federal government would be engaging in that very practice.

Since Alaska tribal enrollment is the vehicle being used to further this action a few comments on this subject are in order. First, the Alaska Native Claims Settlement Act defined the status of Alaska native tribes. Subsequent legal action has reinforced and further clarified the language in ANCSA. Nowhere in the legislative or legal wrangling associated with this Act is there a provision allowing or providing for the preferential treatment of tribes described in the council decision.

With this in mind, one can only assume the council has concocted it's own vision of the law and opened yet another legal Pandora's box for Alaskans, with potential state and federal constitutional ramifications.

Another very troubling issue that needs to be addressed is the shadow government nature of the council's action. A shadow government in this case is an appointed decision making body who's actions significantly impact the general public and are not accountable to the electorate for those actions. It's obvious considering the cultural, legal and political implications associated with the halibut subsistence decision that NPFMC has ventured well into shadow government territory. The pity of this is that if the council does not clean up this proposal those of us that are responsible to the electorate and unfortunately the court system will be left with the mess.

On the positive side, it has not been too many years ago that Alaskans were allowed to fish a short skate and keep a limited number of bottom fish for personal use. Why can't we return to this kind of program with a provision allowing proxies to be fished for elders and those that otherwise can not participate. If indeed the issue here is access to the resource this proposal or some facsimile should satisfy the affected parties. If there is a loftier goal buried in this proposal I question why NPFMC is involved at all.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Watson".

Dennis Watson, Mayor

Cc: Alaska Troller Asso.
Southeast Seinars Asso.
United Fisherman of Alaska



November 17, 2000

David Benton, Chairman
North Pacific Fisheries Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
NOV 27 2000
N.P.F.M.C

Dear Mr. Benton:

First, I would like to thank the Council for acknowledging that the City of Adak is an Alaskan Native Village. As the conversion of Adak Island from a Naval Base with a very controlled access system to a fishing port and transportation hub takes place we the Aleut People are again occupying the Island homes of our forbearers. Even now with large non-native presence during the peak of the fishing season we the Native People are a majority part (45%) of the total population.

I would like at this time to clear up some misunderstanding about our take over of the north end of Adak Island. While we are receiving a great deal of military property some of great value to us, other parts somewhat a white elephant; the land itself did not come free. We had to divest our ownership of land on other islands to acquire this area. The Aleut people in effect bought the land on Adak Island it was not a gift.

As President and CEO of the Aleut Corporation I would like to point out that the conversion of Adak from U.S. Naval Base to an Aleut Village is an ongoing process. Counting children we have 112 people not always a majority but certainly a substantial number of Alaska Native People.

We are a Native Village as well as an Alaskan Second Class City.

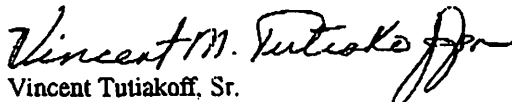
To now raise the issue of our traditional use is an insult. My parents and family were removed from these islands by the U.S. Military back in 1942 to be taken to internment camps while our vessels were destroyed, our homes and churches destroyed and vandalized, further the cold war was used as an excuse to keep us from our land for the next 60+ years to now say you have not proven traditional use to these lands and water's seems hard to understand, what of the 8000 years before 1942.

My home is Adak Island. I have family and relatives working and going to school at Adak. We are not only Alaskan Natives, but citizens of the United States of America with the same dreams of home and happiness as any other American, our son's and daughter's hold office some in the military and as we return to the land of our forbearers intend to also pick up where they left off.

We at Adak only wish to be accepted as Alaska's People on their own Native Land, without having to jump through specialized hoops invented by those who for some reason don't want to see us return.

We the Aleut people thank you for the actions you took in Sitka and hope as you reconsider those actions you as a Council reaffirm them.

Sincerely,
THE ALEUT CORPORATION


Vincent Tutiakoff, Sr.
President

Alaska State Legislature

Senator Drue Pearce
President of the Senate



Representative Brian Porter
Speaker of the House

during interim:
716 W 4th Avenue, Suite 500
Anchorage, AK 99501
voice: (907) 269-0200
fax: (907) 269-0204

during session:
State Capitol
Juneau, AK 99801-1182
voice: (907) 465-4993
fax: (907) 465-3872

during session:
State Capitol
Juneau, AK 99801-1182
voice: (907) 465-4930
fax: (907) 465-3834

during interim:
716 W 4th Avenue, Suite 300
Anchorage, AK 99501
voice: (907) 269-0155
fax: (907) 269-0154

November 21, 2000

David Benton
Chairman
North Pacific Fishery Management Council
605 West Fourth Avenue, Suite 306
Anchorage, Alaska 99501-2252

RECEIVED
NOV 28 2000
N.P.F.M.C

Re: Eligibility to Participate in
Subsistence Halibut Fishing

Dear Chairman Benton:

At its September meeting the North Pacific Fishery Management Council (Council) adopted a proposal to establish a subsistence halibut fishery in waters off Alaska. The proposal establishes a regulatory framework that will allow Alaskans who have traditionally taken halibut for subsistence uses to continue to do so. We support that objective. But we strongly request that you and the other members of the Council modify the criteria you have approved for identifying the Alaskans who will be eligible to participate in the new subsistence halibut fishing program.

The proposal the Council adopted allows residents of 118 rural coastal communities to participate in subsistence halibut fishing. It also allows individuals who are not residents of those communities (and who may live in Anchorage or Fairbanks, or for that matter Seattle or Chicago) to participate if they are members of certain "Alaska Federally recognized native tribes".

That approach presumes that there are "federally recognized tribes" in Alaska; but we believe there are not. Last year in John v. Baker, 982 P.2d 738 (Alaska 1999), the Alaska Supreme Court reaffirmed that between the purchase of Alaska in 1867 and 1993 neither Congress nor the Secretary of the Interior "recognized" "tribes" in Alaska. Id. 749. However, the Alaska Supreme Court then concluded that in 1993 Assistant Secretary of the Interior for Indian Affairs Ada Deer "recognized" Alaska "tribes" by publishing a list of Alaska "federally recognized tribes" in the Federal Register. The Court also concluded that in 1994, Congress intended its enactment of the Federally Recognized Indian Tribe List Act (FRITLA), Pub. L. No. 103-454, Title I, 108 Stat. 4791 (1994), to ratify Assistant Secretary Deer's action.

But the questions of whether in 1993 Assistant Secretary Deer acted lawfully and, if she acted unlawfully, whether

Congress intended its enactment of FRITLA to ratify Assistant Secretary Deer's ultra vires action are exclusively federal legal questions. While the Alaska Supreme Court is free to express its opinion regarding the answers to those questions, the questions can be answered definitively only by the federal courts.

The Legislative Council of the Alaska State Legislature has requested the U. S. District Court for the District of Columbia to decide the question of tribal status in Alaska in two cases that are pending in that court: Akiachak Native Community and Kenaitze Indian Tribe v. Monteau, No. 1:96-CV-02302, and Native Village of Barrow v. National Indian Gaming Commission, No. 99-CV-886. If the Council's request is granted, the question of tribal status in Alaska will be settled sometime in the next several years in the Akiachak and Barrow litigation. If the request is denied, then the question of tribal status in Alaska will be settled in some other federal case. But until the question of tribal status in Alaska is settled definitively, the Council should not use membership in "federally recognized tribes" that we and many other members of the Alaska State Legislature, as well as the members of Alaska's congressional delegation, believe do not exist as a criterion to determine eligibility for participation in subsistence halibut fishing.

We also would point out that even if the federal courts determine that there are "federally recognized tribes" in Alaska, the Fifth Amendment to the U. S. Constitution requires classifications that allocate subsistence halibut fishing opportunities among Alaska residents to be rationally related to the achievement of a permissible governmental objective. We assume that the governmental objective of the Council's new subsistence halibut fishing program is to enable Alaska residents, both Native and non-Native, who depend upon the taking of halibut for food and who have limited alternative food resources to continue to take halibut for that purpose. Assuming so, it is reasonable to assume that the residents of the 118 rural coastal communities the Council has identified in its proposal are dissimilarly situated from residents of Anchorage and Alaska's other urban areas insofar as their dependence upon halibut for food is concerned.

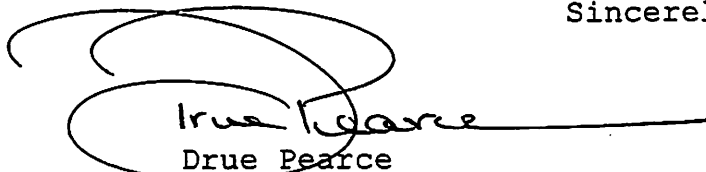
But what is the governmental objective the Council intends to achieve by allowing an Anchorage resident who is a member of a "federally recognized tribe" to subsistence fish for halibut in the waters of a rural area, while denying the same fishing opportunity to Anchorage residents who are not members of a "federally recognized tribe" but who in all respects other than their lack of tribal membership are similarly situated to the

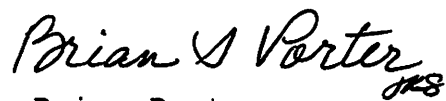
first Anchorage resident? Until the Council clearly and publicly answers that question, and until the General Counsel of the National Oceanic and Atmospheric Administration advises the Council that its intended governmental objective (whatever that objective is) is constitutionally permissible, the Council should not use membership in a "federally recognized tribe" as an eligibility criterion for participation in subsistence halibut fishing.

In conclusion, for the reasons set forth above, we request the Council to modify the subsistence halibut fishing proposal it approved at its September meeting to limit eligibility to participate in subsistence halibut fishing to residents, both Native and non-Native, of the 118 rural coastal communities that the Council has identified in its proposal.

Thank you for your attention to our request, and please do not hesitate to contact us if we may be of any additional assistance regarding it.

Sincerely,


Drue Pearce
President of the Senate


Brian Porter
Speaker of the House

cc: Senator Ted Stevens
Senator Frank Murkowski

Congressman Don Young
Governor Tony Knowles
Penelope Dalton
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
James Balsiger
Alaska Regional Director
National Marine Fisheries Service